

ACLU Suit Challenges Some Uses of Wiretaps

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By Claudia Levy

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The American Civil Liberties Union filed suit in U.S. District Court here yesterday challenging the Federal government's use of electronic surveillance to gather evidence in "domestic security" cases.

The suit specifically asks the court to prohibit the use of wiretaps against nine civil rights and antiwar groups and against eight radicals charged with conspiring to incite violence at last summer's Democratic National Convention in Chicago.

It names U.S. Attorney General John N. Mitchell and Federal Bureau of Investigation Director J. Edgar Hoover as defendants and asks the court to bring criminal proceedings against them and their agents for past surveillances.

The ACLU-sponsored suit is a direct challenge to the Justice Department's recent bid in the Chicago case to broaden the category of wiretaps and electronic buggings that it is not required to disclose. Defense counsel there asked that tapes and logs of illegal eavesdropping on any of the eight defendants be produced.

At least five of the defendants have been subject to wiretapping; law professor and ACLU counsel Herman Schwartz said yesterday.

The Justice Department contended that the tapes need not be disclosed, even if declared illegal, because they were conducted "to protect the Nation from attempts by domestic organizations to use unlawful means to attack and subvert the existing structure of Government."

Melvin Wulf, ACLU national legal director, said yesterday's suit was filed as part of the organization's interest in "opposing wiretapping for any purpose whatsoever at any time or any place."

He said it challenges on constitutional grounds the right of the government to wiretap without judicial scrutiny. It asks that the court declare wiretapping unconstitutional under the First Amendment and the Fourth Amendment guarantee against illegal search and seizure.

The suit seeks a permanent injunction prohibiting all electronic surveillance of the plaintiffs "and the class they represent". It requests damages of \$100 a day for each

day of alleged violation or \$1000 for instances of electronic surveillance prior to June 10, 1968, the effective date of the Omnibus Anti-crime Act, which includes provisions for electronic surveillance.

It asks the court to declare these surveillances void and challenges Mitchell's contention that the President has inherent constitutional power to authorize wiretaps free from judicial supervision or review.

Plaintiffs in yesterday's action are the Catholic Peace Fellowship, the War Resisters League, the Student Nonviolent Coordinating Committee, the Congress of Racial Equality, the Southern Conference Educational Fund, the American Servicemen's Union, the Black Panther Party for Self-Defense, the National Mobilization Committee to end the War in Vietnam and the New York Resistance.

The eight individuals are David T. Dellinger, head of the National Mobilization Committee; Thomas E. Hayden and Rennie Davis of Students for a Democratic Society; Lee Weiner, of Chicago; John R. Forines, of Eugene, Ore.; Black Panther leader Bobby G. Seale, and the two founders of the Youth International Party (Yippies), Abbie Hoffman and Jerry Rubin.

The class of plaintiffs represented in the suit, the brief said, "encompasses all American citizens who have, do, or intend to advocate ideas, policies and political positions which are unpopular, controversial or who otherwise dissent from the ideas, policies and political positions predominant in American society. This class, which includes groups of all political persuasions—radical, liberal and conservative—is so numerous that joinder of all members is impossible."



By Charles Del Vecchio—The Washington Post

Attorneys Melvin Wulf, left, of the ACLU, and Herman Schwartz discuss wiretap suit.